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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,589	07/02/2003	Jeffrey M. Simpson	2S14.1-011	6134
23506	7590	06/02/2005	EXAMINER	
GARDNER GROFF, P.C. 2018 POWERS FERRY ROAD SUITE 800 ATLANTA, GA 30339			SWIATEK, ROBERT P	
		ART UNIT		PAPER NUMBER
				3643
DATE MAILED: 06/02/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/612,589	SIMPSON, JEFFREY M.
	Examiner Robert P. Swiatek	Art Unit 3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10, 13-18 and 20-25 is/are rejected.
- 7) Claim(s) 11, 12, 19, 26 and 27 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 March 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9, 10, 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Mo (US 5,282,542). The carrier 20 of Mo includes rectangular panels 21, 22 made from strips of a bendable plastic material (see column 1, lines 17-20, of Mo) that resembles wicker or rattan, a frame (unnumbered *per se*, but essentially the sides of the bottom member 21) about which lower portions 221 of the side walls 22 are woven or wrapped, and a latch 23', 23", 40 for fastening a longer side wall 22 to a shorter side wall 22. In this respect, longer side wall 22 is deemed to constitute a door and the edges of shorter side walls 22 elements of a door opening. The Mo carrier is capable of containing a pet.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7, 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mo. Use of a latch to secure a door/side panel 22 of Mo in an inwardly open position as well as the use of

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metal in the construction of the frame would have been obvious to one skilled in the art wishing to enhance carrier ventilation and increase its strength, respectively.

Claims 20, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulson et al. (US 539,394) in view of Smith et al. (US 318,812). The patent to Poulson et al. discloses a wall structure including a metallic frame A, B with interwoven, metallic lathing C. The structure of which the Poulson et al. partition is a part could be employed to enclose an animal. The Poulson et al. structure, however, does not disclose an opening and associated door. It would have been obvious to one skilled in the art to provide the wall structure of Poulson et al. with the swinging door h of the Smith et al. patent, in order to permit easy passage of items through the partition with a minimum of obstruction. Provision of a latch to secure the door of Poulson et al. in an inwardly open position would have been obvious to one skilled in the art seeking to prevent inadvertent movement or closure of the door while in use—the latch essentially serving as a doorstop.

Claims 22-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Bohlen (US 2,247,598). The Bohlen bed includes a floor panel 4, sides 13, 24, support legs 17, and a plurality of tubular channels 4' that receive cooperating portions 6 of the bed. The sides 13, 24 serve to enclose the mattress that would be used with the bed. The preamble of claim 22 has not been given weight inasmuch as a pet could be placed in the Bohlen bed; as to claim 24, the floor panel 24 is considered to resist movement in any one direction because of tension exerted by the springs 6.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ho in view of Ho et al. (US 5,464,113). The Ho carrier lacks a hinged top panel. The patent to Ho et al. depicts a

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woven hamper having sidewalls 1, a bottom, and a hinged lid 5. It would have been obvious to one skilled in the art to employ the hinged lid of Ho et al. with the Mo carrier, in order to permit the contents of the carrier to be shielded and protected from the environment.

Claims 11, 12, 19, 26, 27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed 8 March 2005 have been fully considered but they are not persuasive. Claims 1-10, 13-18, 20-25 are not believed allowable for the reasons set forth above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Applicant's declaration filed 8 March 2005 and the amendment to claim 13 necessitated the new grounds of rejection.

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The patents to Weng (US 5,931,326) and Cramer et al. (US 5,938,057) have been cited to provide additional examples of container assemblies.

Summary: Claims 1-10, 13-18, 20-25 have been rejected; claims 11, 12, 19, 26, 27 have been rejected.

RPS: 0571/272-6894

27 May 2005

Robert P. Swiatek
ROBERT P. SWIATEK
PRIMARY EXAMINER
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